THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.36209 OF 1998

DATED: 07-09-2007

Between :

Kothagulla Raja Rao … Petitioner

And

1. The District Collector, Khammam District,
   Khammam and others. … Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.36209 OF 1998

ORDER :

The petitioner herein who claims to be a landless poor person has been in possession and enjoyment of Ac.5-00 cents of land situated in Sy.No.576 of Jagannadhapur Village, Mulakalapalli Mandal, Khammam District from the year 1960 onwards. It is stated that after making the land fit for cultivation, he has been raising crops which is the only source of his livelihood. While so, in the year 1990, the 4th respondent – Mandal Revenue Officer having initiated proceedings for eviction of the petitioner under A.P. Land Encroachment Act, 1905, ordered eviction on 28-4-1995. Aggrieved by the same, the petitioner preferred an appeal before the 3rd respondent – Revenue Divisional Officer under Section 10 of the A.P. Land Encroachment Act, 1905. The 3rd respondent after hearing both the parties while recording a finding that the petitioner has been in possession for more than 30 years, set aside the order of eviction. Admittedly, the said order has become final. However, a fresh notice dated 22-12-1998 was issued by the 4th respondent under Section 7 of the A.P. Land Encroachment Act, 1905 calling upon the petitioner to show-cause as to why he should not be evicted from the land alleging that he is in unauthorized occupation of the Government land. Aggrieved by the said action of the 4th respondent, the present writ petition has been filed.

I have heard the learned Counsel for the petitioner as well as the learned Government Pleader appearing for the respondents.

In the counter-affidavit filed on behalf of the respondents, the fact that the order passed by the Revenue Divisional Officer dated 29-5-1995 has become final is not disputed. However, it is contended that the impugned notice dated 21-12-1998 being a show-cause notice, the writ petition is premature.

On a careful consideration of the entire material on record, particularly the order passed by the Revenue Divisional Officer dated 29-5-1995, which has become final in which the earlier order of eviction was set aside, I am of the opinion that the respondents are not justified in reopening the matter by initiating fresh proceedings on the very same allegation that the petitioner is in unauthorized occupation of the land.

Accordingly, the impugned notice is hereby set aside and the Writ Petition is allowed. No costs.

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G. ROHINI, J.

Dt. 07-09-2007

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